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Security Council

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Report of the Security Council mission to Timor-Leste, 24 to 30 November 2007

I. Introduction

1. In his letter dated 31 October 2007 (S/2007/647), the President of the Security Council informed the Secretary-General that the members of the Council had decided to send a mission to Timor-Leste from 24 to 30 November 2007. The primary purpose of the mission, as set out in its terms of reference, was to reaffirm the commitment of the Security Council to assist the Timorese people to consolidate peace, democratic governance and the rule of law in the post electoral period in Timor-Leste, to express the Security Council's full support for the United Nations Integrated Mission in Timor-Leste (UNMIT), and to assess the progress made on the ground in the implementation of the mandate of UNMIT. The mission was also directed to discuss and exchange views with the Timorese authorities on ways and means to assist the country in developing capacities necessary to build on security and democratic and other gains achieved thus far. The full terms of reference and the composition of the mission are contained in the annex to the present report.

2. The mission left New York on 24 November and returned on 1 December. During the visit, the mission met with the President of Timor-Leste, José Ramos-Horta, the Prime Minister, Xanana Gusmão, the President of the National Parliament, the President of the Court of Appeal, Cabinet ministers, members of Parliament, leaders of political parties, civil society, the General Commander-designate of the national police, the Commander of the armed forces, the diplomatic community, UNMIT and the acting Commander of the international security force. The mission held separate meetings with the Bishops of Dili and Baucau. In addition, the mission visited the western district of Liquiça and the second-largest city in Timor-Leste, Baucau, located in the eastern part of the country, to meet with local officials, representatives of political parties and the UNMIT and national police commanders of each district.

II. Key concerns and issues

National reconciliation and democracy

3. The mission visited Timor-Leste following the first presidential and parliamentary elections since independence, held in April, May and June 2007, as the country is trying to slowly recover from the crisis of 2006. That crisis

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demonstrated that the differences among the political leaders of the country exacerbated the divisions at all levels of Timorese society, thus underlining the need for further efforts at national reconciliation and dialogue. While the elections of 2007 were held peacefully and were assessed as being free and fair by the Timorese and the international community, the violence that followed the announcement of the formation of the new Government in August 2007 (the Alliance for a Parliamentary Majority, which won 37 seats in Parliament, was invited to form the Government, not the former ruling party, Fretilin, which won 21 seats) was an indication of the fragility of the political situation and the need for further sustained efforts to build a truly democratic society.

4. President Ramos-Horta and Prime Minister Gusmão emphasized to the mission the determination of the State and Government to restore stability and normalcy, while reaffirming their commitment to democracy and the rule of law. The new Government had just taken office in August 2007, and the Prime Minister, while acknowledging that the country faced many challenges, said he believed that the Government could address the problems in the course of the next year or two. He placed particular importance on institutionalizing transparency, combating corruption and building a culture of democratic values. The elections were clearly a step forward for Timor-Leste in the consolidation of democracy. Since the new Parliament had started functioning, discussions on the Government's programme and the transitional budget were an encouraging exercise in constructive democratic debate. The Government demonstrated due respect for the Parliament as an independent organ of sovereignty, and parliamentary debate was generally constructive.

5. During a meeting with the mission, the Secretary-General of Fretilin and former Prime Minister, Mari Alkatiri, observed that the elections had brought new problems. He described the new Government as "unconstitutional" and "illegal" and said that it had "no legitimacy", as the party led by Xanana Gusmão had obtained only 24 per cent of the vote, while Fretilin had won 29 per cent, and the coalition headed by Mr. Gusmão, consisting of four parties that had received a combined total of over 51 per cent of the vote, had been formed only after the elections in order to obtain a majority of the seats in Parliament. Mr. Alkatiri said that if the coalition had existed before the elections and had contested the elections as a bloc and won, Fretilin would have accepted the results. He declared that new elections would have to be held no later than 2009, possibly by mid-2009. However, he expressed Fretilin's determination not to use violence to resolve differences, stressing that it would use "political means" to convince the President that new elections had to be held. Despite the concerns of Fretilin, the mission was informed by all interlocutors, including President Ramos-Horta, Mr. Alkatiri and representatives of UNMIT, that Fretilin attends parliamentary sessions and has participated actively in Parliament, including in committee and plenary discussions.

6. While considerable progress has been made in democratization, the mission noted that the root causes of the crisis of 2006 and its consequences have yet to be fully addressed. Underlying political tensions from the time of the crisis and the recent elections remain in segments of society at both the national and district levels, including pro- and anti-Fretilin support, east and west regional dynamics and divisions between the military and the police. In a statement delivered to the mission, a number of local non-governmental organizations observed that "East Timor is facing a crisis of identity" and that "These realities have arisen due to the

complicated and divided history of the East Timorese people over the last three generations and they present huge challenges to the process of nation-building and the overall development of the country". They appealed to the mission to support the Government in the creation of mechanisms for engaging civil society actors so that a common strategy can be developed and implemented to build national unity.

General security situation and security sector reform

7. After the violence in the eastern districts following the swearing-in of the new Government on 8 August, the overall security situation has improved throughout the country. There are continued minor sporadic disturbances in parts of Dili, and the situation continues to be fragile and volatile. There is concern that continuing problems stemming from the crisis (such as those relating to the fugitive Major Reinado, the "petitioners" (see below) and internally displaced persons) could have a negative impact on the security situation. Acknowledging the contribution made by UNMIT police to the improvement of the security situation, all Timorese interlocutors called for the continued presence of that police force and requested that it continue to assist the Government in maintaining security. Opposition parties represented in Parliament expressed the view that, because of the divisions within the political leadership and the lack of trust in Timorese security institutions, the people were still uncertain about the prospects for longer-term security and stability. All parties called on the United Nations to stay in the country, together with the international security force, while democratic structures are being built.

8. The mission was told that, in general, cooperation between the UNMIT police, who have a mandate for interim law enforcement, and the national police, with whom they are co-located, has been satisfactory, although there is room for improvement. Some Timorese civil society representatives in the districts voiced complaints to the mission about the high-handedness of some UNMIT police officers when dealing with, inter alia, incidents in the camps for internally displaced persons, in some of which women and children are the victims of violence. With regard to the institutional strengthening of the national police, the registration and certification programme is proceeding according to the Supplemental Arrangement on Policing. So far, 3,110 officers (97 per cent of the total strength) have been registered and have undergone screening. Of these, 1,274 have been provisionally certified and 186 fully certified. However, several police commanders voiced resentment, saying that, as the screening and mentoring process of the national police was taking a long time, officers were not able to perform operational duties and had to defer to the UNMIT police. They expressed the view that operational policing, especially in Dili, should involve the Timorese as soon as possible and expressed concern about being marginalized in the eyes of their own people. Notwithstanding those concerns, there was a clear desire on the part of the Timorese for international police to impart skills and expertise and provide more training, and it was suggested that additional dedicated United Nations police with training skills be deployed to the Mission.

9. The larger challenges in the security sector, which include the need to improve interaction between the security institutions, strengthen the legal framework, increase operational capabilities and enhance civilian oversight, are to be addressed in the context of the security sector reform process. Initial steps for the process started in December 2006, when the security sector review joint working group, co-chaired by senior representatives of the relevant ministries and UNMIT, was

established. The President has taken a lead role in the security sector review process, establishing a three-tier mechanism. He told the mission that under the previous minister the police force had been factionalized and that the Timorese would have to learn from the mistakes of the past. It would take time to develop a professional police force, and United Nations assistance would be needed. He also stressed that, until the problems of the two security institutions were addressed, there would continue to be serious problems, while acknowledging that he had tried to foster better relations between the institutions and that the relationship had indeed improved. The Secretary of State for Security and the Commander of the armed forces both pointed out that a national security policy had yet to be formulated, the Commander stating that there was a need for clarity on the role of the armed forces in the country. It is encouraging to note that in preparation for the comprehensive review of the security sector, on which UNMIT is mandated to assist the Government, work had recently started on drafting a national security policy, with the assistance of UNMIT.

10. The armed forces, which are dependent mainly on bilateral donors for their development, comprise 700 men and women since the dismissal of 594 soldiers in March 2006 in the wake of complaints of alleged discrimination within the force. The handling of the issue of those "petitioners" was an immediate trigger for the 2006 crisis. The position of the President and the Government is that the issue can be resolved through a combination of financial compensation and, for some, the chance of re-recruitment into the armed forces on a case-by-case basis. This is to be balanced with incentives for the force. The President informed the mission that that proposal had been accepted by the Commander of the armed forces, who had previously opposed any reintegration of the petitioners into the force.

Capacity-building

11. The Prime Minister identified one of the Government's main needs as capacity-building and indicated that it was reaching out to neighbouring countries to assist the Government in strengthening capacity in various areas. Major strides have been made since 2002 to build the capacity of the public service, but enormous challenges remain. During the crisis of 1999, as many as 8,000 civil servants, the majority of whom were Indonesian, fled the country. Restoring the appropriate level of strength, competence and experience will take a number of years. In addition to the limited pool of qualified personnel with core technical skills and knowledge, the public service in Timor-Leste is still crucially lacking clarity in its organizational structure, systems and work processes. Establishing a public service with systems and processes that are based on merit, competency and professionalism and which is non-political remains a challenge.

12. Like the four organs of sovereignty (the presidency, the Parliament, the courts and the executive), the justice sector is in need of continuing international assistance. The President of the Court of Appeal (the highest court in the land), who is an international judge of Timorese birth and ethnicity, expressed his appreciation to the mission for the expatriate judges, prosecutors and other judicial personnel provided by the United Nations and the international community, which, he said, had allowed the system to function and also allowed for national human resource training for the sector. He expressed the view that it would take many years before the country could build the necessary national resources. According to the President of the Court of Appeal, the scarcity of human resources had been exacerbated by the

2006 crisis, which had increased the caseload, as several sensitive cases had been investigated and some had gone to trial. He said the fragile institutional structure was the major challenge facing Timor-Leste and, coupled with limited capacity and lack of skills and training, it undermined the building of a culture of peaceful settlement of conflicts. He appealed for enhanced United Nations assistance for the justice sector. Similarly, the Deputy Prosecutor-General of Timor-Leste pointed out that, as there were only eight national and four international prosecutors, the prosecution service was understaffed and did not have the personnel it required to fulfil its mandate. As an example, he mentioned that both the Government and UNMIT had appealed to the international community to provide expertise to the legal system of Timor-Leste in investigating and prosecuting cases identified by the Independent Special Commission of Inquiry. It is encouraging to note that the new Government has indicated its intention to increase budgetary appropriations for the justice sector to ensure that it can undertake its functions.

Justice and the rule of law

13. The Independent Special Commission of Inquiry recommended in its report of October 2006 the prosecution of more than 60 individuals allegedly involved in criminal acts during the 2006 crisis. As a follow-up to the report, the Prosecutor-General has initiated 16 investigations in relation to criminal offences. Trials have been held in three cases and are pending in three other cases. Taking into account the serious resource constraints of the judicial sector as mentioned in paragraph 12 above, as well as the sensitive political environment, notable progress has been made in implementing the recommendations of the Commission. All Timorese interlocutors who met with the mission underlined the importance of justice and accountability in connection with the events of 2006, and emphasized the importance of investigating and trying those responsible on all sides in that conflict. In this regard, some opposition political parties appealed to the United Nations to expedite the implementation of the recommendations of the Commission, in particular the appointment of an international Deputy Prosecutor-General to ensure that prosecutions are free of political influence.

14. The fact that Major Alfredo Reinado, deserting military police commander, has evaded justice and continues to be at large after escaping from prison in August 2006 is being used by the Fretilin party against the current Government as an indication of Government bias, since the former Minister for the Interior and former Vice-President of Fretilin has been tried and convicted for his role in the 2006 crisis. President Ramos-Horta informed the mission that the Government had tried to apprehend Reinado by force in February but that the operation had resulted in the deaths of five people, while he had escaped capture. The President intimated that the Government was not intending to use force to capture Reinado as that would be "irresponsible", but conveyed his determination to ensure that he would face justice, even if it took 10 years. While the Government strategy is to negotiate with Reinado on facing justice, he, in turn, is attempting to further link his own situation with the petitioners issue. Fretilin members of Parliament, in particular, as well as several representatives of political parties and civil society, repeatedly expressed their concern to the mission that the Reinado case had not yet been resolved, a factor contributing to extant fears that the security situation is still fragile, with the potential for further violence in the future.

Situation of the internally displaced persons

15. There are still an estimated 100,000 internally displaced persons (30,000 in Dili; 70,000 in the districts), made up of Timorese who fled their homes as a result of the 2006 crisis either because their houses were burned down or because they feared for their own security or that of their families. Members of Parliament and representatives of political parties and civil society expressed their concern to the mission that the situation of the internally displaced persons had not yet been resolved. They viewed it as a threat to political and social stability and a serious humanitarian concern. The mission visited one of the four main camps for internally displaced persons in Dili, located adjacent to the national hospital, and spoke with displaced persons. Their main concern was their perception that, despite the presence of UNMIT police and the international security force in Dili, the security situation was not conducive to their leaving the camp and returning to their homes. They also expressed the view that there had been no progress in the justice process in the country.

16. It was clear to the mission that the main reasons why internally displaced persons do not leave the camps and return home are the lack of security and the lack of housing. There was a view among many of the Timorese interlocutors with whom the mission met that, until the cases of Major Reinado and the petitioners were resolved, the internally displaced persons would remain in the camps. While an enabling political and security environment would encourage them to return to their communities, it was also clear that longer-term efforts by the Government to rebuild or construct new housing for them would be needed.

Human rights

17. While the situation of the internally displaced persons poses a major challenge for the Government, the people of Timor-Leste generally enjoy a range of human rights, including freedom of speech, freedom to criticize the Government, freedom of assembly and freedom of religion. Strengthening the justice system and improving access to justice would be a priority for increasing public confidence in the State's ability to safeguard the human rights of its citizens. In terms of national human rights machinery, it was encouraging to note that the Office of the Provedor for Human Rights and Justice, which has a mandate to protect human rights, strengthen integrity, promote good governance and combat corruption, has expanded its activities following a setback in the areas of human rights and governance during the 2006 crisis. At a meeting with the mission, the Provedor, Sebastião Dias Ximenes, explained that his Office had been active in addressing the humanitarian and security crisis primarily through monitoring internally displaced persons and liaising with Government and other agencies in attempting to protect their rights. However, he pointed out that his Office still had much work to do in explaining its role to the public so that it could be seen as a mechanism available to all those who need it.

18. The Provedor informed the mission that his Office had received 370 complaints from the public since March 2006. The majority of complaints related to allegations of maladministration, followed closely by allegations of human rights violations. By far the largest number of complaints relating to both human rights and maladministration focused on the national police, and he expressed the hope that the Government would invest greater resources in the

training and professional development of the police and in developing mechanisms for accountability. It was encouraging that the Provedor informed the mission that provision was being made in the 2008 budget to expand the activities of the Office by establishing, for the first time, four regional offices. However, the Provedor faces constraints in connection with trained manpower similar to the challenges faced by other State institutions and will continue to need assistance from the international community.

Socio-economic development

19. The mission noted that unemployment, particularly among young people, is very high (40 per cent on average) and that it has become an important cause of violence and unrest. In a statement handed to the mission, non-governmental organizations pointed out that many children and young people had been involved in the ethnic "east and west" conflict and in martial arts groups which had been fighting each other, contributing to civil unrest and causing the collapse of the social structure, especially in Dili. Poverty continues to be a major cause of instability in Timor-Leste; about 40 per cent of the population still lives below the national poverty line, and an annual economic growth rate of 7 per cent is required to reduce poverty significantly. The mission was gratified to note that youth employment has been identified as a priority area by the Government in the international "compact" for Timor-Leste. (The "compact" is a resource-coordination framework designed to facilitate enhanced cooperation among international and national stakeholders in connection with six strategic priority areas.)

20. The mission also noted that Timor-Leste has the financial resources available for its development in the form of its oil and gas resources. It is estimated that oil and gas production in the Timor Sea will have provided $1.9 billion by the end of 2007. The revenues are held in the Petroleum Fund established in 2005. The Fund is expected to increase steadily in the medium term. The current forecast shows the total value of the Fund as $2.9 billion by 2008 and $5.6 billion by 2011. The non-governmental organizations observed in their statement to the mission, however, that the high revenues from the petroleum sector have not affected people's lives so far. While the Government has been praised for the effective management of the Fund, a balance would have to be struck between prudent management of the resources in the Fund for future generations and their utilization to improve the current socio-economic conditions of the people of Timor-Leste, in particular young people.

III. Observations

21. The Government of Timor-Leste and the Timorese people received the mission warmly, and its visit to the country was overwhelmingly perceived as a reaffirmation of support for and readiness to assist Timor-Leste on the part of the United Nations and the international community. All of the Timorese interlocutors with whom the mission met expressed their gratitude for the support of the United Nations for Timor-Leste, and complimented UNMIT on its work. The Timorese leadership and members of the Government, in particular, expressed their full satisfaction with the cooperation received from UNMIT. All Timorese stakeholders also conveyed their strong desire for the United Nations to stay in the country on a long-term basis because of the enormous challenges the country is facing.

22. Having met with the Timorese leadership, parliamentarians, representatives of political parties, civil society, the Church and the diplomatic community and senior officials of UNMIT, the mission is of the view that many of the causes of the 2006 crisis have yet to be addressed. Central to the crisis were issues of governance, the separation of powers and the building of sustainable institutions. The crisis occurred because of divisions in the leadership, weak institutions — especially the security forces — and poor government structures. Furthermore, some of the consequences of the crisis, namely, the issues relating to Reinado, the petitioners and the internally displaced persons have not been resolved. Rebuilding the confidence of the population in the institutions of the State and the security situation, reintegrating internally displaced persons and resolving the inevitable disputes over land and property are all very real challenges facing the nation in 2007 and beyond.

23. Foremost among the mission's concerns is the fact that, despite the successful holding of presidential and parliamentary elections, divergences among the political leaders continue to exist. This has implications for national unity and political stability at a time when national consensus is required to address the grave problems confronting the country, such as those relating to internally displaced persons, security sector reform, economic development, restoring stability, strengthening democratic institutions and improving governance and respect for the rule of law. The mission urges the political leaders of Timor-Leste to work together to tackle those issues in a coordinated way in the national interest. It is clear that there remains a need for continued dialogue and conflict resolution activities at the national and community levels to foster greater political consensus and defuse the existing tensions. The mission encourages UNMIT to continue to exercise its good offices role to expedite efforts for national reconciliation. The mission felt that the reconciliation process should be without prejudice to the need for justice and accountability for criminal acts; to the right of elected officeholders to govern in accordance with the Constitution and laws and with the Government's programme, as approved by the national Parliament; and to the right of the opposition to oppose Government policies using exclusively peaceful and non-violent means.

24. It was clear to the mission that unless the differences among the Timorese leaders are resolved, political uncertainty will persist, and with it the prospect of renewed violence and bloodshed. The Timorese people were most anxious about the precarious security situation, and a better security environment would contribute greatly to the return and reintegration of internally displaced persons. In this regard, it is equally important for the leadership to expeditiously resolve not only issues relating to Reinado and the petitioners, but other issues identified by the Commission of Inquiry, particularly those involving justice and accountability for wrongdoing during the 2006 crisis. The resolution of these issues and the implementation of the Commission's recommendations would also demonstrate that justice is being done and seen to be done, reinforce the primacy of the rule of law in the country and thus counter the perception of impunity. Justice is also necessary to buttress the ongoing efforts for dialogue and national reconciliation.

25. Because of the lack of confidence of the people of Timor-Leste in their security institutions, especially in the police, since the 2006 crisis, they see the continuation of the United Nations police presence as vital for the maintenance of law and order and for the training and institutional development of the police. The mission noted however that there were underlying tensions in the relationship between the UNMIT police and the national police, despite their generally good

cooperation. There appears to be some resentment among the national police as a result of the fact that UNMIT police are undertaking operational duties, while the national police are in a subordinate position and unable to take on such responsibilities because they are still being screened and mentored by UNMIT police, in accordance with the Supplemental Arrangement on Policing signed by UNMIT and the Government. The mission strongly endorses the suggestion of the Special Representative of the Secretary-General for Timor-Leste that the Secretary-General deploy an expert mission as early as possible to review the working relationship, roles and responsibilities of the UNMIT police and its relationship with the armed forces and the Ministry of Interior, as defined in the Supplemental Arrangement.

26. The mission is of the view that Timor-Leste will continue to need United Nations assistance in a number of areas in the foreseeable future. In the coming year it will be crucial for the new Government, which took office only in August 2007, to consolidate itself and implement its priority programmes to enhance security and improve the lives of the people, for which it will require the support of multilateral and bilateral partners to accomplish its objectives. The mission hopes the Government will consider investing in infrastructure, such as roads, transport, public works, telecommunications and power, with the expectation that that would not only provide employment for young people in Timor-Leste, but also encourage foreign investment and provide a boost for tourism, for which the country has significant potential, if the necessary facilities are constructed. The investment and business climate, and the reintegration of internally displaced persons, would benefit if the Government were to complete the legal infrastructure regarding land in order to extend full property rights. The Government may also wish to consider using the wealth derived from the natural resources of oil and gas for sustainable economic and social development.

27. The mandate of UNMIT, which expires on 26 February 2008, as decided by the Security Council in its resolution 1745 (2007), should be renewed, as it has an important role to play in continuing to assist the Timorese people and leaders in addressing the serious challenges that the young country still faces. While there is an enormous reservoir of international goodwill for Timor-Leste, the mission was concerned that United Nations and international assistance should be seen to be encouraging the strengthening of democratic institutions, the rule of law and self-reliance in Timor-Leste, so as to lessen dependence on international assistance. The mission expressed the view that, while the United Nations can assist, it is not in a position to resolve the fundamental political, social and economic problems of the country. The future of Timor-Leste lies in the hands of its leaders and people, and they must take ownership of its development and demonstrate the political will to help themselves. During the period of the mandate extension, the mission requests the Secretary-General to report on the progress made in key areas to allow the Security Council to assess the extent of support needed from the United Nations in future.

Annex

Terms of reference and composition of the mission

The terms of reference of the mission were as follows:

1. To reaffirm the Security Council's commitment to the sovereignty, independence, territorial integrity and national unity of Timor-Leste and the promotion of long-term stability in the country.

2. To commend the people of Timor-Leste for their successful elections and efforts aimed at consolidating peace and democracy in their country.

3. To encourage the Government, the Parliament, the political parties and the people of Timor-Leste to continue to work together and engage in political dialogue and consolidate peace, democracy, the rule of law, security sector reform, sustainable social and economic development and national reconciliation in the country.

4. To reaffirm the commitment of the Security Council to assist the Timorese people to consolidate peace, democratic governance and the rule of law, in the post-electoral period in Timor-Leste, to support and encourage efforts to ensure accountability and justice and implementation of United Nations recommendations in that regard, and to stress that the mandate of the United Nations Integrated Mission in Timor-Leste (UNMIT) set out in Security Council resolution 1745 (2007) constitutes a significant contribution by the United Nations to this endeavour.

5. To express the Security Council's full support for UNMIT and for the United Nations presence in Timor-Leste, and to assess the progress made on the ground in the implementation of the mandate of UNMIT.

6. To discuss and exchange views with the Timorese authorities on ways and means to assist the country in developing capacities necessary to build on security and democratic and other gains achieved thus far.

7. To underscore the long-term commitment of the international community to stabilization and development in Timor-Leste, and the need for continuing support of bilateral and international partners to Timorese efforts towards self-reliance.

The mission was composed of the following members:

Ambassador Dumisani Kumalo (South Africa — Head of Mission)
Ambassador Liu Zhenmin (China)
Mr. Muhammad Anshor (Indonesia)
Ms. Diana Eloeva (Russian Federation)
Ambassador Peter Burian (Slovakia)
Ambassador Jackie Wolcott (United States of America)